

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ICI USA, LLC, a Washington State Limited )  
Liability Corporations )  
Plaintiff, ) NO. 11-1428  
v. ) VERIFIED COMPLAINT FOR  
HELEN OF TROY Ltd., a Barbados Company;) DECLARATORY AND INJUNCTIVE  
OXO International , Ltd., a Texas Limited ) RELIEF  
Partnership )  
Defendants. )

Plaintiff ICI USA, LLC (“ICI”), by and through its undersigned attorneys, Karr Tuttle Campbell, brings this Complaint for Declaratory and Injunctive Relief against Defendants Helen of Troy Ltd. (“Helen of Troy”), a Barbados Company, and OXO International, Ltd. (“OXO”), a Texas Limited Partnership, herein referred to individually or collectively as the Defendant or the Defendants, respectively. Upon Information and belief, ICI alleges as follows:

**VERIFIED COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF - 1  
#813009 v1 / 44204-016**

*Law Offices*  
**KARR TUTTLE CAMPBELL**  
*A Professional Service Corporation*

## **NATURE OF THE ACTION**

1. This is a civil action for declaratory judgement, pursuant to 28 USC §2201 *et. seq.*, relating to United States Patent No. 7,832,027 (the “‘027 Patent”).
2. ICI seeks a permanent injunction enjoining Defendants from filing against ICI any claims or counterclaims alleging patent infringement by ICI with respect to the ‘027 Patent.
3. ICI also seeks a declaration that the ‘027 patent is invalid.

## THE PARTIES

4. Plaintiff ICI USA, LLC is a Washington State Limited Liability Corporation which maintains its principal offices in Seattle, Washington and sells and offers for sale products in the Western District of Washington and elsewhere.
5. Defendant Helen of Troy Ltd. is a Barbados Company which maintains its principal offices in Bridgetown, Barbados and sells and offers for sale products in the Western District of Washington and elsewhere.
6. Defendant OXO International, Ltd. is a Texas Limited Partnership which maintains its principal offices in El Paso, Texas and sells and offers for sale products in the Western District of Washington and elsewhere.
7. Defendants have made allegation of patent infringement in the Western District of Washington.
8. Defendant Helen of Troy is the assignee of the '027 Patent and manufacture and offers for sale products in the Western District of Washington and elsewhere.
9. Upon information and belief, OXO is a subsidiary company of Helen of Troy.

**VERIFIED COMPLAINT FOR DECLARATORY  
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10. Upon information and belief, OXO licenses the '027 Patent from Helen of Troy. OXO manufactures and offers for sale products in the Western District of Washington and elsewhere.

## **JURISDICTION AND VENUE**

11. This is an action arising under the patent laws of the United States, 35 USC §§ 1 *et seq.* Accordingly, this Court has jurisdiction pursuant to 28 USC §§1331 and 1338 (a)
12. Venue is proper in the Western District of Washington pursuant to 28 USC §§1391 and 1400(b).

**PATENT IN SUIT**

13. The '027 patent (a true and correct copy of which is attached hereto as Exhibit 1 entitled "Flexible Sink Strainer") issued on November 16, 2010.

## **FACTUAL ALLEGATIONS**

14. OXO manufactures and distributes Good Grips (“OXO Strainer”) which it describes as a silicone sink strainer with stopper.

15. The Defendants allege that the OXO Strainer is taught by the '027 Patent.

16. ICI manufactures and distributes the Collapsible Stopper & Strainer ("ICI Strainer").

17. In July 2011, the Defendants, through its Counsel, sent a letter to ICI indicating that ICI is infringing on the '027 Patent (a true and correct copy of which is attached hereto as Exhibit 2).

18. In August 2011, Defendant OXO, through its Counsel, sent a letter to ICI asking that ICI dispose of its remaining inventory of the ICI Strainer (a true and correct copy of which is attached hereto as Exhibit 3).

1 19. On or about August 22, 2011, the head of OXO, Alex Lee spoke with the managing  
2 partner of ICI via telephone. During that phone call, Mr. Lee advised ICI's managing  
3 partner that the ICI Strainer was infringing on the '027 Patent, and if ICI did not cease  
4 and desist manufacture and distribution of the ICI Strainer, OXO would file a suit  
5 claiming that ICI is infringing on the '027 Patent.

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7 20. As a direct and proximate result of the aforementioned threats and conduct, ICI has  
8 lost and continues to lose sales for the ICI Strainer, which would have yielded  
9 substantial profits for ICI.

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11 21. ICI continues to be in reasonable apprehension of Defendants filing a lawsuit against  
12 the ICI on the '027 Patent.

13 **COUNT I: CLAIM FOR DECLARATORY**  
14 **JUDGEMENT OF NON INFRINGEMENT**

15 22. This is a claim under the Declaratory Judgement Act, 28 U.S.C. §§ 2201 and 2202, for  
16 a judgment declaring that ICI does not infringe any valid claim of the '027 Patent.

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18 23. Plaintiff incorporates and realleges the allegations of paragraphs 1 through 22 above.

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20 24. Plaintiff manufactures and distributes the ICI Strainer which has been accused by  
Defendants of infringement.

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22 25. The ICI Strainer does not infringe on any valid claims of the '027 Patent.

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## **PRAYER FOR RELIEF**

**WHEREFORE**, pray for judgement and relief as follows:

- (a) A declaratory judgment in accordance with 28 U.S.C. § 2201(a) declaring that the ICI Strainer do not infringe any valid claim of the ‘027 Patent; and
- (b) Permanently enjoin Defendants from threatening Plaintiff with infringement of the ‘027 Patent; and granting such ancillary relief as may be appropriate pursuant to 28 U.S.C. § 2202.

RESPECTIVELY SUBMITTED,

ICI USA, LLC  
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**VERIFIED COMPLAINT FOR DECLARATORY  
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## VERIFICATION

I, Matthew Frank, depose and say:

1. I am the Managing Partner of ICI USA, LLC and I have read the attached Verified Complaint for Declaratory and Injunctive Relief.

2. The information contained in the Verified Complaint for Declaratory and Injunctive Relief is true and correct except where the information is stated as being upon information and belief, and as to those statements, I verily believe that such information is true and correct.

Mark F.

Matthew Frank

STATE OF WASHINGTON )  
 ) SS.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that MATTHEW FRANK is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Managing Partner of ICI USA, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: August 29, 2011



NOTARY PUBLIC in and for the State  
of Washington, Residing at Seattle, WA

Lokas Henne

(Printed or Stamped Name of Notary)  
My appointment expires 11/4/13

**VERIFIED COMPLAINT FOR DECLARATORY  
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#813009 v1 / 44204-016**

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